

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

MEETING DATE: May 19, 2004

DIVISION: Public Works

BULK ITEM: Yes x No

DEPARTMENT: Unin. Parks & Beaches

AGENDA ITEM WORDING: Approval to renew management agreement with the Upper Keys Family YMCA for management of the Key Largo Community Park in the amount of \$42,191.57 per year.

ITEM BACKGROUND: The Upper Keys Family YMCA has been managing and scheduling recreational activities at the Key Largo Community Park since May 15, 2000. Per the attached, the YMCA would like to continue the agreement and has requested a 3.5% increase (\$1,426.77 over the current contract amount of \$40,764.80) to fund a 3% salary increase and rising health benefit costs.

PREVIOUS RELEVANT BOCC ACTION: Approved original agreement on February 16, 2000, and approved renewal agreements on October 17, 2001, May 15, 2002, and April 16, 2003.

CONTRACT/AGREEMENT CHANGES: 1) Renew agreement for one (1) additional year, leaving one additional one-year renewal term, and 2) increase annual contract amount from \$40,764.80 to \$42,191.57.

STAFF RECOMMENDATION: Approval as stated above.

TOTAL COST: \$42,191.57

BUDGETED: Yes: x No:

COST TO COUNTY: same

SOURCE OF FUNDS: Ad valorem

REVENUE GENERATED: Yes No x

APPROVED BY: County Atty.: OMB/Purchasing: Risk Management:

DIVISION DIRECTOR APPROVAL:


Dent Pierce

DOCUMENTATION: INCLUDED: x **TO FOLLOW:** **NOT REQUIRED:**

DISPOSITION:

AGENDA ITEM #: D-17

Leto-Beth

From: Leto-Beth
Sent: Wednesday, April 14, 2004 2:25 PM
To: Pierce-Dent
Subject: FW: YMCA - KL Comm. Park

-----Original Message-----

From: DClark@ymcamiami.org [mailto:DClark@ymcamiami.org]
Sent: Wednesday, April 14, 2004 2:08 PM
To: Leto-Beth@MonroeCounty-FL.Gov
Subject: Re: YMCA - KL Comm. Park

Hello Beth,

We would absolutely like to renew the agreement! If possible, we would respectfully request a 3.5% increase as the positions funded through this agreement have been granted a 3% salary increase and our cost for health care has risen substantially.

Please let me know what else you need from me. The easiest way to reach me is either by email or call my cell phone, 305-298-6830 (I will be out of town 4/23 until 4/30).

Thank You!
Don

Don,

The Management Agreement will be expiring on May 14, 2004. Please advise me as quickly as possible whether the Y intends to renew the agreement and if a CPI increase will be requested. (Current CPI is 1.7%). If you intend to request an increase, it needs to be justified in writing and will be presented to the BOCC with the agenda item. The next available meeting is May 19, 2004, at the Key Largo Library.

Thanks,
Beth
(305) 292-4560

ForwardSourceID:NT000125E6

4/14/2004

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: UPPER KEYS FAMILY YMCA Contract # _____
 Effective Date: 5/15/04
 Expiration Date: 5/14/05

Contract Purpose/Description: Renewal of management agreement for Key Largo Community Park.

Contract Manager: Beth Leto 4560 Public Works - #1
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on May 19, 2004 Agenda Deadline: May 4, 2004

CONTRACT COSTS

Total Dollar Value of Contract: \$42,191.57 Current Year Portion: \$15,821.84
 Budgeted? Yes ☒ No ☐ Account Codes: 147-20503-530340
 Grant: \$ _____
 County Match: \$ _____

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ n/a /yr. For: _____
 (Not included in dollar value above) (e.g., maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

| | Date In | Changes Needed | Reviewer | Date Out |
|-------------------|----------------|---|--------------------|----------------|
| Division Director | <u>5/3/04</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>[Signature]</u> | <u>5/13/04</u> |
| Risk Management | <u>4/22/04</u> | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <u>[Signature]</u> | <u>4/22/04</u> |
| O.M.B./Purchasing | <u>4/22/04</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>[Signature]</u> | <u>4/22/04</u> |
| County Attorney | <u>4/22/04</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>[Signature]</u> | <u>4/22/04</u> |

Comments: Insurance requirements can no longer be referenced by "attached schedule or exhibit." They must be included in the body of the contract

OK - renewal only - will be corrected on new contract

**RENEWAL OF
MANAGEMENT AGREEMENT**
(Key Largo Community Park)

This renewal of management agreement is made and entered into this 19th day of May, 2004, by and between MONROE COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter COUNTY, and the UPPER KEYS FAMILY YMCA, a branch of the YMCA of Greater Miami Association, hereinafter YMCA, in order to renew and amend that certain management agreement enter into between the parties on February 16, 2000, as renewed on October 17, 2001, May 15, 2002, and April 16, 2003, as follows:

1. Section 2 is hereby amended to read as follows:

“2. TERM. The term of this management agreement shall be for one (1) year, commencing May 15, 2004, and shall be terminate on May 14, 2005, unless extended pursuant to the terms of this agreement.”

2. Section 3 is hereby amended to read as follows:

“3. EXTENSIONS. This management agreement may be extended for one (1) additional period of one year each if YMCA provides to the COUNTY written notification of YMCA's intent to extend the management agreement at least thirty (30) days prior to the expiration of the management agreement. Such extension is not available, however, if the COUNTY has provided to YMCA written notification of its intent not to consent to an extension at least sixty (60) days prior to the expiration date of this management agreement.”

3. Section 9 is hereby amended to read as follows:

“9. PARK REVENUES/COSTS. All revenue generated at the PARK site by the YMCA must be deposited in a separate account at a federally insured financial institution with an office in Monroe County. All revenue generated at the PARK site must be spent for recreational programs and activities at the PARK, minus five percent of the revenues which may be spent for administrative overhead made necessary by the YMCA's park programs and activities. All PARK revenue records and accounts must be kept according to generally accepted account principles and made available during regular business hours (Monday-Friday, 9:00 a.m. - 5:00 p.m., holidays excepted) to auditors employed by either Monroe County or the State of Florida. If an auditor employed by the COUNTY or the State determines that revenue generated at the PARK was spent for a purpose or purposes not authorized by this contract, then the YMCA must pay over to the County the sum determined by the auditor to be improperly spent. The COUNTY may only use the refunded sum for PARK improvements or maintenance.

The COUNTY shall pay YMCA \$42,191.57 per year to fund the salary and associated benefits of a full-time Park Manager. The COUNTY shall pay the YMCA

on a per month in arrears basis in an amount equal to 1/12 of this cost, or \$3,515.96 per month. The Contractor shall provide a monthly invoice to the Division of Public Works, and payment shall be made within fifteen (15) days."

4. In all other respects the management agreement entered into between the parties on February 16, 2000, as renewed on October 17, 2001, May 15, 2002, and April 16, 2003, remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day first written above.

(SEAL)
Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Mayor/Chairman

Witnesses:

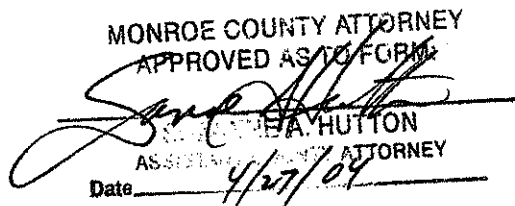
YMCA OF GREATER MIAMI, INC.

By: _____

By: _____

By: _____

Title: _____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

SANDRA HUTTON
ASSISTANT ATTORNEY
Date 4/27/04

**RENEWAL OF
MANAGEMENT AGREEMENT**

This renewal of management agreement is made and entered into this 16th day of April, 2003, by and between MONROE COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter COUNTY, and the UPPER KEYS FAMILY YMCA, a branch of the YMCA of Greater Miami Association, hereinafter YMCA, in order to renew and amend that certain management agreement enter into between the parties on February 16, 2000, as renewed on October 17, 2001, and May 15, 2002, as follows:

WITNESSETH:

WHEREAS, YMCA is a not-for-profit corporation established for the provision of activities for the healthy development of all persons' spirit, mind and body; and

WHEREAS, YMCA provides such activities in a wholesome, alcohol-free and drug-free environment for all people in Monroe County; and

WHEREAS, it is a legitimate public purpose to provide facilities and services for recreational use and social functions of the community in a wholesome environment free from drugs and alcohol;

NOW, THEREFORE, in consideration of the covenants hereinafter to be kept and preformed, the COUNTY hereby agrees to renew and amend the management agreement with the YMCA to manage and schedule recreational activities at that certain property described as follows:

1. PREMISES. Lots 312 to 384, Port Largo Fourth Addition, Section 33, Township 61S, Range 39E, Monroe County, Florida. This parcel contains 615,623 square feet and is known as the Key Largo Community Park (hereinafter PARK).
2. TERM. The term of this management agreement shall be for one (1) year, commencing May 15, 2003, and shall be terminate on May 14, 2004, unless extended pursuant to the terms of this agreement.
3. EXTENSIONS. This management agreement may be extended for two (2) additional periods of one year each if YMCA provides to the COUNTY written notification of YMCA's intent to extend the management agreement at least thirty (30) days prior to the expiration of the management agreement. Such extension is not available, however, if the COUNTY has provided to YMCA written notification of its intent not to consent to an extension at least sixty (60) days prior to the expiration date of this management agreement.
4. USE OF PREMISES. The PARK shall be actively used to provide a recreational program for the Key Largo area. The COUNTY hereby enters into this management agreement with YMCA to operate said recreational program. During the operation of YMCA based programs, the YMCA will be held responsible for supervision of the programming area. If the YMCA observes a

nuisance or any illegal or immoral activities, including alcoholic beverages or unlawful narcotics being possessed, used or consumed by persons on the premises, they will immediately contact the Public Works representative listed in Section 31 of this agreement and the Sheriff's Department.

5. **HOURS OF OPERATION.** PARK hours of operation are established by the Board of County Commissioners of Monroe County, Florida, and are currently set from 7:00 a.m. to 8:30 p.m., seven days per week, 365 days per year. All YMCA programs will take place during the hours of operation of the PARK, except for the following holidays: **(New Year's Day, Easter Sunday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.**

6. **SCHEDULING OF ACTIVITIES.** YMCA will schedule all PARK activities and requests for use of or events at the PARK. Except during league play, YMCA agrees to leave one basketball court, one baseball field and two tennis courts (at least one lighted tennis court) open for use by the general community. The YMCA will be exempt from liability for incidents not directly related to YMCA scheduled activities and/or events. Further, YMCA agrees to allow the COUNTY the precedence of scheduling authorized activities or events, no more than ten (10) times in a calendar year, at the PARK. The COUNTY will notify YMCA of the events or activities, but YMCA will be exempt from liability for said events.

7. **FEES AND PROGRAMS.** YMCA will schedule all youth baseball and soccer leagues; however, such leagues are exempt from paying any YMCA fees. No participant will ever be turned away from the YMCA's programs. YMCA agrees to offer programs at reasonable rates and to allow all persons into their programs regardless of their ability to pay. Rates are as follows:

| | |
|------------------------|---------|
| Youths Sports Leagues: | \$60.00 |
| Tennis Lessons: | \$73.00 |

Adult League rates will vary depending upon the sport and the length of league play.

The YMCA may add additional programs, upon written request to the County Administrator, who may temporarily approve the new programs, pending approval of a formal, written amendment to this management agreement by the Board of County Commissioners.

8. **CONCESSION STAND.** The YMCA shall operate the concession stand located at the PARK based upon demand or during scheduled events and programs. The concession stand shall not be open beyond PARK hours except during properly scheduled activities and events. Commodities to be sold at the concession stand shall include healthy foods, drinks, real juice products, bottled water and snacks and must be sold at prices comparable with other like concessions in the surrounding area. No items may be sold in glass containers. YMCA may collaborate with other organizations to operate the concession stand; however, the YMCA will be entitled to the right of refusal in this regard. YMCA will furnish all necessary equipment and furnishings needed to operate the concession stand, and upon termination of this management agreement, all such equipment and furnishings will become the property of the YMCA. The COUNTY will install all electrical wiring and plumbing needed to allow YMCA to have the concession equipment properly installed.

9. **PARK REVENUES/COSTS.** All revenue generated at the PARK site by the YMCA must be deposited in a separate account at a federally insured financial institution with an office in Monroe County. All revenue generated at the PARK site must be spent for recreational programs and activities at the PARK, minus five percent of the revenues which may be spent for administrative overhead made necessary by the YMCA's park programs and activities. All PARK revenue records and accounts must be kept according to generally accepted account principles and made available during regular business hours (Monday-Friday, 9:00 a.m. - 5:00 p.m., holidays excepted) to auditors employed by either Monroe County or the State of Florida. If an auditor employed by the COUNTY or the State determines that revenue generated at the PARK was spent for a purpose or purposes not authorized by this contract, then the YMCA must pay over to the County the sum determined by the auditor to be improperly spent. The COUNTY may only use the refunded sum for PARK improvements or maintenance.

The COUNTY shall pay YMCA \$40,764.80 per year to fund the salary and associated benefits of a full-time Park Manager. The COUNTY shall pay the YMCA on a per month in arrears basis in an amount equal to 1/12 of this cost, or \$3,397.06 per month. The Contractor shall provide a monthly invoice to the Division of Public Works, and payment shall be made within fifteen (15) days.

10. **OFFICE SPACE.** YMCA is permitted to set up an office and have telephone service established in the press box. YMCA will have exclusive access to the office space located with the press box. YMCA will be responsible for all furnishings, equipment, and telephone charges associated with this office space.

11. **UTILITIES.** The COUNTY will be responsible for all utilities charges associated with the PARK, with the exception of telephone service for the YMCA office located in the press box.

12. **SIGNAGE.** YMCA is permitted to install YMCA signs and rules & regulations signs, upon COUNTY approval, contingent upon YMCA receiving any necessary permits, as well as appropriate approvals and clearances from utility companies. COUNTY will install scheduling signs by the tennis courts, and signs for the Vita Course marking distances in the PARK for mileage.

13. **COMPLAINTS.** YMCA and COUNTY agree to work together in close communication concerning all grievances and complaints.

14. **IMPROVEMENTS.** The COUNTY may remodel, renovate or reconstruct any buildings, structures or pavilions on the premises. In addition, the COUNTY is responsible for all resurfacing and major work at the PARK.

15. **MAINTENANCE.** COUNTY staff will perform and be responsible for all maintenance of the buildings and improvements at the PARK and will maintain and stock the bathrooms daily. The COUNTY will accept any and all responsibility for accidents and incidents related to the maintenance and renovation of the facility. Furthermore, the YMCA will be exempt from any and all liability related to the COUNTY'S maintenance of the facility, however, if the YMCA observes

any dangerous conditions on site, they will immediately contact the Public Works representative indicated in Section 31 of this agreement.

16. **FUNDRAISING.** All fundraising and fees charged in connection with the PARK shall only be used to benefit the PARK. The YMCA will be responsible for the collection of the above-mentioned fundraising and fees. In addition, YMCA will decide upon the appropriate disbursements and allocation of these funds.

17. **ACCOUNTING/INSPECTION OF BOOKS/ANNUAL AUDIT.** The YMCA shall maintain its financial records in accordance with generally accepted accounting principles and allow the COUNTY to inspect its books and records at any reasonable time. YMCA shall, at its expense, provide the COUNTY with an annual audit prepared by an Independent Certified Public Accountant. YMCA shall retain all records pertaining to this management agreement for a period of three years after the term expires.

18. **CANCELLATIONS.** Either party hereto may cancel this management agreement with or without cause by giving the other party sixty (60) days written notice sent certified mail of its intentions to do so.

19. **RETURN OF PREMISES.** At the end of the term of this management agreement or any extensions thereof, YMCA shall vacate and peacefully surrender the premises to the COUNTY. YMCA shall not suffer or permit any waste to occur to the premises during the term of this management agreement.

20. **INDEPENDENT CONTRACTOR.** At all times and for all purposes hereunder, the YMCA is an independent contractor and not an employee of the Monroe County Board of County Commissioners. No statement contained in this management agreement shall be construed so as to find YMCA or any of its employees, contractors, servants or agents to be employees of the Board of County Commissioners.

21. **INDEMNIFICATION AND HOLD HARMLESS.** YMCA covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damages (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of YMCA scheduled activities and events governed by this management agreement.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this management agreement.

22. **INSURANCE.** Prior to YMCA taking possession of the property owned by the COUNTY, or commencing its operations, YMCA shall obtain, at its own expense, insurance as specified in the attached schedules, which are made part of this management agreement.

YMCA will not be permitted to occupy or use the property until satisfactory evidence of the required insurance has been furnished to the COUNTY as specified below.

YMCA shall maintain the required insurance throughout the entire term of this management agreement and any extension specified in the attached schedules. Failure to comply with this provision may result in the immediate termination of the management agreement and the return of all property owned by the COUNTY.

YMCA shall provide, to the COUNTY, as satisfactory evidence of the required insurance, either a certificate of insurance or a certified copy of the actual insurance policy.

The COUNTY, at its sole option, has the right to request a certified copy of any or all insurance policies required by this contract.

All insurance policies must specify that they are not subject to cancellation, non-renewal, material change, or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the COUNTY by the insurer.

The acceptance and/or approval of YMCA's insurance shall not be construed as relieving YMCA from any liability or obligation assumed under this management agreement or imposed by law.

The Monroe County Board of County Commissioners will be included as "Additionally Insured" on all policies, including the policies of all organizations utilizing the PARK for scheduled programs. The COUNTY will also be named as "Loss Payee" with respect to Fire Legal Exposure.

Any deviations from these General Insurance Requirements must be requested in writing on the COUNTY prepared form entitled "Request for Waiver of Insurance Requirements" and approved by Monroe County Risk Management.

23. **COMPLIANCE WITH LAW.** In providing all services pursuant to this management agreement, YMCA shall abide by all statutes, ordinances, and rules and regulations pertaining to or regulating the provisions of such services, including those in effect and those hereinafter adopted. Any violation of said statutes, ordinances or rules and regulations shall constitute a material breach of this management agreement and shall entitle the COUNTY to terminate this management agreement immediately upon delivery of written notice of termination to YMCA, and the COUNTY may thereupon re-enter the premises.

24. **PROFESSIONAL RESPONSIBILITY/LICENSING/ARTICLES OF INCORPORATION.** YMCA shall assure that all professionals have current and appropriate professional licenses and professional liability insurance coverage. Upon execution of this management agreement, the YMCA will provide the COUNTY with a copy of its Articles of Incorporation and a list of its Board of Directors.

25. **MODIFICATIONS AND AMENDMENTS.** Any and all modifications to this management agreement or to any of the services provided shall require an amendment to this management agreement to be approved in writing by both parties hereto.

26. NO ASSIGNMENT. YMCA shall not assign this management agreement or sublease the premises except in writing and with prior written approval of the Board of County Commissioners, which approval shall be subject to such conditions and provisions as the Board may deem necessary. This management agreement shall be incorporated by reference into any assignment and any assignee shall comply with all provisions herein. Unless expressly provided for therein, such approval shall in no manner or event be deemed to impose any additional obligation upon the COUNTY.

27. NON-DISCRIMINATION. YMCA shall not discriminate against any person on the basis of race, creed, color, national origin, sex or sexual orientation, age, physical handicap or any other characteristic or aspect which is not job-related in its recruiting, hiring, promoting, terminating or any other area affecting employment under this management agreement. At all times, YMCA shall comply with all applicable laws and regulations with regard to employing the most qualified person(s) for positions under this management agreement. Additionally, YMCA shall not discriminate against any person on the basis of race, creed, color, national origin, sex or sexual orientation, age, physical handicap, financial status or any other characteristic or aspect in regard to providing services hereunder.

28. AUTHORIZED SIGNATORY. The signatory for YMCA, below, certifies and warrants that:

- a) YMCA's name in this management agreement is its full name as designated in its corporate charter, if a corporation, or the full name under which YMCA is authorized to do business in the State of Florida.
- b) He or she is empowered to act and contract for YMCA.
- c) This management agreement shall been approved by the Board of Directors of YMCA, if YMCA is a corporation.

29. NOTICE. Any notice required or permitted under this management agreement shall be in writing and hand-delivered or mailed, postage pre-paid, by certified mail, return receipt requested, to the other party as follows:

FOR COUNTY
Monroe County Public Works
1100 Simonton St., Rm. 2-231
Key West, Florida 33040

FOR YMCA
YMCA of Greater Miami, Inc.
1320 South Dixie Highway, Suite 120
Coral Gables, Florida 33146

30. CONTACT PERSONS. The following,* or their designees, are the contact persons in connection with this management agreement:

FOR COUNTY
Building Administrator
Dan Fonte
Office Phone: 852-7161

FOR YMCA
Executive Director - Upper Keys YMCA
or YMCA Senior Vice President

31. **CONSENT TO JURISDICTION.** This management agreement shall be construed by and governed under the laws of the State of Florida and venue for any action arising under this management agreement shall be in Monroe County, Florida.

32. **NON-WAIVER.** Any waiver or any breach of covenants herein contained to be kept and performed by YMCA shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the COUNTY from declaring a forfeiture for any succeeding breach, either of the same condition or covenants or otherwise.

33. **FUNDING AVAILABILITY.** In the event that funds are partially reduced or cannot be obtained or continued at a level sufficient to allow for the purchase of the services contemplated, then the contract may be terminated immediately at the option of the COUNTY upon written notice of termination being delivered in person or by mail to YMCA. The COUNTY will not be obligated to pay for any services provided by YMCA after YMCA has received written notice of immediate termination.

34. **PUBLIC ENTITIES CRIME STATEMENT.** A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. (CATEGORY TWO: \$15,000.00).

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day first written above.

(SEAL) 18 23
Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: *Daniel C. DeSantis*
Deputy Clerk

By: *Lejia M. Spuhar*
Mayor/Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY *Suzanne A. Hutton*
SUZANNE A. HUTTON
3/26/03

Witnesses:

YMCA OF GREATER MIAMI, INC.

By: _____

By: *[Signature]*

By: _____

Title: *CEO*